

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff and  
Counter Defendant,

Case No. 23-cv-355-wmc

v.

TOWN OF LAC DU FLAMBEAU,

Defendant and  
Counter Claimant.

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**UNITED STATES' MOTION TO QUASH INTERVENING DEFENDANTS'  
SUBPOENA DUCES TECUM AND FOR A PROTECTIVE ORDER**

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Pursuant to Fed. R. Civ. P. 45(d)(3)(A)(iii) and 26(c) and this Court's Preliminary Pretrial Conference Order (Dkt. 24), Plaintiff United States of America respectfully moves this Court for an order quashing Intervening Defendants' Rule 45 Subpoena Duces Tecum to non-party Steigerwaldt Land Services, Inc. ("Subpoena") and an order protecting from disclosure any privileged or otherwise protected materials sought by the Subpoena until after the Court rules on this Motion. Steigerwaldt Land Services, Inc. ("Steigerwaldt") has informed the United States that the current deadline to produce the materials is November 21, 2023.

The United States requests this relief because the Subpoena seeks appraisal materials pertaining to Indian-trust and restricted-fee land prepared for the United

States, but in the possession of Steigerwaldt, that is privileged or otherwise protected within the meaning of Fed. R. Civ. P. 45(d)(3)(A)(iii). In addition, Intervening Defendants' attempt to obtain the materials at this early stage of the litigation is untimely. The detailed legal grounds upon which the United States relies are set forth in the legal memorandum filed contemporaneously herewith.

The Intervening Defendants served the Subpoena on Steigerwaldt on October 25, 2023, and also provided the United States and the Town of Lac du Flambeau with notice of the Subpoena on that date. On October 31, Steigerwaldt waived and accepted service of the Subpoena, which directed that the materials sought be produced by November 17. Also on October 31, the United States sent an email to the Intervening Defendants and Town expressing the United States' position regarding the privileged nature and lack of relevance of the materials sought. The Intervening Defendants and Town requested that the United States provide written clarification of its position prior to scheduling a conference to confer about the dispute. Since that time, the United States has been working to prepare the requested clarification.

Understanding that Steigerwaldt's deadline for complying with the Subpoena had been extended to November 21, the United States contacted Intervening Defendants on November 20 to request an extension of that deadline to allow sufficient time for the United States to provide its clarification and for the parties to confer. The Intervening Defendants responded that they were not in a position to extend the deadline given the passage of time and other factors. Although efforts to resolve the dispute are incomplete, the impending deadline and privileged nature of the materials

at issue compel the United States to seek the Court's intervention at this time.

WHEREFORE, the United States respectfully moves the Court for the following relief:

- A. An order quashing the Subpoena; and
- B. A protective order barring the disclosure any privileged or otherwise protected materials sought by the Subpoena until fourteen (14) days after the Court's ruling on this Motion or as otherwise set by the Court.

DATED: November 21, 2023

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of November, 2023, a true and correct copy of the foregoing *United States' Motion to Quash Intervening Defendants' Subpoena Duces Tecum and for a Protective Order* was served upon counsel for Steigerwaldt Land Services, Inc.:

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